

1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

3
4 MARQUIS TILMAN,
5 Plaintiff,

6
7 VS. Civil No. 2:20-cv-10-KS-MTP

8 CLARKE COUNTY, MISSISSIPPI, et al.

9 Defendants.

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13 DEPOSITION
14 OF
15 DEPUTY AUSTIN TOUCHSTONE
16 SEPTEMBER 29, 2021
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22

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<p>1 The deposition of AUSTIN TOUCHSTONE is</p> <p>2 taken on this, the 29th day of September 2021, on</p> <p>3 behalf of the Plaintiff, pursuant to notice and</p> <p>4 consent of counsel, beginning at approximately</p> <p>5 3:00 p.m. via Zoom video conference.</p> <p>6 This deposition is taken pursuant to the</p> <p>7 terms and provisions of the Federal Rules of</p> <p>8 Civil Procedure.</p> <p>9 All forms and formalities are waived.</p> <p>10 Objections are reserved, except as to form of the</p> <p>11 question, to be disposed of at or before the</p> <p>12 hearing.</p> <p>13 The signature of the witness is not</p> <p>14 waived.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 2</p>	<p>1 I N D E X</p> <p>2</p> <p>3 EXAMINATION INDEX</p> <p>4</p> <p>AUSTIN TOUCHSTONE</p> <p>5 BY MR. MOORE 5</p> <p>6</p> <p>7</p> <p>8 EXHIBIT INDEX</p> <p>9 EXHIBIT NO. DESCRIPTION PAGE</p> <p>10 EXHIBIT NO. 1 Statement by Austin 17</p> <p>Touchstone. CLT Tilman 88.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 COURT REPORTER'S CERTIFICATE 33</p> <p>22</p> <p>23 ERRATA SHEET 34</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 4</p>
<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR THE PLAINTIFF:</p> <p>4 CARLOS MOORE, ESQ.</p> <p>Cochran Firm</p> <p>5 306 Branscome Drive</p> <p>Grenada, Mississippi 38902</p> <p>6 601-227-9940</p> <p>cmoore@cochranfirm.com</p> <p>7</p> <p>8</p> <p>9 FOR THE DEFENDANT:</p> <p>10 JESSICA MALONE, ESQ.</p> <p>Allen, Allen, Breeland & Allen</p> <p>11 214 Justice Street</p> <p>Brookhaven, Mississippi 39601</p> <p>12 601-833-4361</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 COURT REPORTING FIRM:</p> <p>21 ALPHA REPORTING -- A VERITEXT COMPANY</p> <p>Polly W. Wardlaw, LCR, CCR</p> <p>22 236 Adams Avenue</p> <p>Memphis, Tennessee 38103</p> <p>23 901-523-8974</p> <p>pollywardlawccr@mail.com</p> <p>24 www.Veritext.com</p> <p>25</p> <p style="text-align: right;">Page 3</p>	<p>1 AUSTIN TOUCHSTONE,</p> <p>2 Having been first duly sworn, was</p> <p>3 examined and testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MR. MOORE:</p> <p>6 Q. State your name.</p> <p>7 A. Robert Austin Touchstone.</p> <p>8 Q. Were you present for the last</p> <p>9 deposition?</p> <p>10 A. No, sir.</p> <p>11 Q. Okay. I'll give you the ground rules</p> <p>12 for your deposition. Continue to answer verbally</p> <p>13 as you're doing so the court reporter, Polly, can</p> <p>14 get everything down correctly. Okay?</p> <p>15 A. Yes, sir.</p> <p>16 Q. When I'm talking I'm going to ask that</p> <p>17 you remain quiet, and when you're talking I will</p> <p>18 do the same so that we do not talk over each</p> <p>19 other and confuse the court reporter. Okay?</p> <p>20 A. Yes, sir.</p> <p>21 Q. I have a tendency to talk fast, so if</p> <p>22 you can't understand me, let me know. I will</p> <p>23 repeat or rephrase the question. Okay?</p> <p>24 A. Okay.</p> <p>25 Q. I will assume you understood the</p> <p style="text-align: right;">Page 5</p>

<p>1 question if in fact you answer. Is that fair?</p> <p>2 A. Yes.</p> <p>3 Q. If you need to take a break at any time,</p> <p>4 let me know. I will allow you to take a break.</p> <p>5 However, if there's a pending question, I ask</p> <p>6 that you answer that question before taking any</p> <p>7 break. Deal?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Have you ever gone by any other name or</p> <p>10 alias besides Robert Austin Touchstone?</p> <p>11 A. No, sir.</p> <p>12 Q. What is your address?</p> <p>13 A. 610 South River Road, Enterprise, 39330.</p> <p>14 Q. Enterprise, Mississippi?</p> <p>15 A. Yes, sir.</p> <p>16 Q. 3930 --</p> <p>17 A. 39330.</p> <p>18 Q. 39330, okay. How long have you lived at</p> <p>19 that address?</p> <p>20 A. I just had an anniversary, so six years.</p> <p>21 Q. Do you live there with your wife?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Or your wife lives there with you?</p> <p>24 A. Well, either way. We both live there.</p> <p>25 Q. Okay. What is your wife's name?</p> <p style="text-align: right;">Page 6</p>	<p>1 A. 601-513-8962.</p> <p>2 Q. Your date of birth?</p> <p>3 A. Excuse me?</p> <p>4 Q. Your date of birth?</p> <p>5 A. Oh, I'm sorry. June 30, 1988.</p> <p>6 Q. How old are you?</p> <p>7 A. Thirty-three.</p> <p>8 Q. What year did you finish high school?</p> <p>9 A. 2006.</p> <p>10 Q. Where did you go?</p> <p>11 A. Enterprise.</p> <p>12 Q. Enterprise High school?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Is that in Clarke County?</p> <p>15 A. Yes, sir.</p> <p>16 Q. What did you do after high school?</p> <p>17 A. Sir, you broke up.</p> <p>18 Q. What did you do job wise after high</p> <p>19 school?</p> <p>20 A. Well, at first I went to work with a</p> <p>21 telecommunications place. And then I went to</p> <p>22 East Mississippi Community College to get an</p> <p>23 electrical lineman degree, and then I went to</p> <p>24 work.</p> <p>25 Q. Did you finish at East Mississippi in</p> <p style="text-align: right;">Page 8</p>
<p>1 A. Jessica Touchstone.</p> <p>2 Q. What's her maiden name?</p> <p>3 A. Risher. It's R-I-S-H-E-R.</p> <p>4 Q. Jessica Risher Touchstone?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And y'all have been married six years?</p> <p>7 A. This past Sunday.</p> <p>8 Q. Congratulations.</p> <p>9 A. Thank you.</p> <p>10 Q. Do you have an ex-wife?</p> <p>11 A. No, sir.</p> <p>12 Q. Do you have any adult children?</p> <p>13 A. No, sir.</p> <p>14 Q. Any other adult relatives in the general</p> <p>15 vicinity in south Mississippi?</p> <p>16 A. Yes, sir. They're all over Enterprise</p> <p>17 and Clarke County, but they're mostly Touchstones</p> <p>18 and Rishers. And that's it as far as off the top</p> <p>19 of my head.</p> <p>20 Q. What's your mother's maiden name?</p> <p>21 A. Bachelor.</p> <p>22 Q. Is she from the area?</p> <p>23 A. No, sir.</p> <p>24 Q. Okay. Give me a phone number where you</p> <p>25 can be reached?</p> <p style="text-align: right;">Page 7</p>	<p>1 electrical lineman?</p> <p>2 A. Yes, sir.</p> <p>3 Q. So you went there about two years?</p> <p>4 A. No, sir. It was only a semester deal,</p> <p>5 like an 18-week class.</p> <p>6 Q. Okay. So what was your first job after</p> <p>7 East Mississippi?</p> <p>8 A. I went to work with Southern Electric</p> <p>9 out of -- around Jackson.</p> <p>10 Q. How long did you stay there?</p> <p>11 A. I'm not exactly sure to be honest with</p> <p>12 you. It wasn't very long. I had gotten another</p> <p>13 job with another company, and I worked there for</p> <p>14 like three months and went to work for the East</p> <p>15 Mississippi Electric Power Association.</p> <p>16 Q. How long did you stay as a lineman</p> <p>17 before you changed to law enforcement?</p> <p>18 A. I was there for two years. Then in 2009</p> <p>19 or '10 -- I can't exactly remember -- I went to</p> <p>20 the part-time academy at Meridian community</p> <p>21 College. Well, it was actually at Meridian</p> <p>22 Training Facility, but I believe it was through</p> <p>23 the community college. And I went to work for</p> <p>24 Stonewall PD.</p> <p>25 And from Stonewall PD I went to work at</p> <p style="text-align: right;">Page 9</p>


<p>1 Quitman Police Department, and they're the ones 2 that sent me to the academy. 3 Q. You finished the academy? 4 A. Yes, sir. 5 Q. Was that the police academy at Pearl? 6 A. No, sir. It was the one at Camp Shelby. 7 Q. What year did you finish the police 8 academy at Camp Shelby? 9 A. 2012. 10 Q. What was your first job after that? 11 A. I stayed at Quitman until the end of 12 that year and then I went to work for Clarke 13 County Sheriff's Office. 14 Q. You've been with Clarke County Sheriff's 15 Department since. 16 A. No, sir. I left not long after that and 17 went to the oil field. And I stayed gone for 18 approximately three, maybe four years. I'm not 19 exactly sure. I think it was three -- four 20 because I came back in '17 I believe it was. 21 October 2nd of 2017 is when I came back. 22 Q. And you've been back with the Sheriff's 23 Department since then? 24 A. Yes, sir. 25 Q. Why did you go back to the Sheriff's</p> <p style="text-align: right;">Page 10</p>	<p>1 workman's comp while I was off. 2 Q. Okay. No other injuries on the job that 3 you know of? 4 A. No, sir. 5 Q. Have you ever filed bankruptcy? 6 A. No, sir. 7 Q. Have you ever been accused of excessive 8 force? 9 A. No, sir. 10 Q. Have you ever been disciplined on the 11 job? 12 A. No, sir. 13 Q. Have you ever been asked to leave a job? 14 A. No, sir. 15 Q. Ever terminated? 16 A. No, sir. 17 Q. Have you ever been a member of any 18 racially exclusive group or organization? 19 A. You froze. I apologize; you froze up, 20 sir. 21 Q. I asked you have you ever been a member 22 of any racially exclusive group or organization? 23 A. Oh, no, sir. 24 Q. Can you hear me? Can you hear me? 25 A. Yes, sir. I heard you.</p> <p style="text-align: right;">Page 12</p>
<p>1 Department? 2 A. I got laid off and I needed some health 3 insurance. That's just the truth. 4 Q. And what's your rank at the Sheriff's 5 Department? 6 A. Deputy. 7 Q. Do you supervise anyone? 8 A. No, sir. 9 Q. Have you ever been convicted of a crime? 10 A. No, sir. 11 Q. Have you ever been involved in any 12 lawsuit besides this one? 13 A. No, sir. 14 Q. You've never been sued before? 15 A. I've never been sued, no, sir. 16 Q. Have you ever sued anybody? 17 A. No, sir. 18 Q. Have you ever had a workers' comp 19 injury? 20 A. I have. 21 Q. Tell me about that. 22 A. Well, it's my finger. These two fingers 23 (indicating). When I worked for the East 24 Mississippi Electric Power Association my finger 25 got hung in a chain. I mean, they paid me</p> <p style="text-align: right;">Page 11</p>	<p>1 Q. Okay. Do black lives matter? 2 A. One more time? 3 Q. Do black lives matter? 4 A. All lives matter. 5 Q. I didn't ask you about all lives. My 6 question is do black lives matter? 7 A. Yes, sir, all lives matter, so that 8 would include black lives matter. 9 Q. All right. What made you refrain or 10 have the retort all lives matter because I asked 11 you about black lives matter? 12 A. Well, because to me all lives matter. I 13 don't care if you're black or what. Everybody 14 matters. 15 Q. Can you say black lives matter without 16 saying all lives matter? 17 A. Black lives matter. 18 Q. Okay. Happy to hear you say that. 19 Do you have any black friends? 20 A. Sir? 21 Q. Do you have any black friends? 22 A. Yes, sir. 23 Q. All right. How many? 24 A. Oh, I don't know. I don't know exactly 25 how many. I mean, I've got several. I mean, I</p> <p style="text-align: right;">Page 13</p>

<p>1 grew up -- where I grew up at we had neighbors 2 and we all hung out. And some of them are older 3 and dead and gone, and some of them now that I've 4 got I still talk to on a daily basis. 5 Q. Can you give me some of their names, 6 your black friends' names? 7 A. Well, one of them is Winston Gray and 8 his son Darrion. Matter of fact, they just came 9 and used my tractor the other day, matter of 10 fact. Jacob Burns was an older guy I used to 11 live next to, and we used to pin cows and stuff 12 together with him. He was a good fellow. I hate 13 he had a heart attack. I know you didn't ask for 14 that, but anyway. 15 There's just several that we work with 16 around. I don't really -- I guess I could sit 17 here all day and answer that. 18 Q. I've got time if you've got names. 19 A. Well, you know what I mean. It's hard 20 on a day-to-day basis the people that you come in 21 contact with, is what I'm saying. I mean, I 22 don't know. You know what I'm saying? It's 23 like... 24 Q. Well, let the record reflect you named 25 two black friends that you could immediately</p> <p style="text-align: right;">Page 14</p>	<p>1 turn in -- I guess a statement would be because 2 it was requested by an investigating officer of 3 our account. The report would be done by the 4 investigating officer. 5 Q. Okay. Who asked you to do a statement? 6 A. I believe it was Ben Ivy I think is who 7 asked me. 8 Q. Okay. Who is Ben Ivy? 9 A. He was a narcotics agent. 10 Q. Did he work for Clarke County Sheriff's 11 Department? 12 A. Yes, sir, he used to. 13 Q. Okay. So you did a report. Did you do 14 your report on the same day of the incident? 15 Your statement? 16 A. Can I look at my statement to see 17 exactly when it was dated? 18 MS. MALONE: Ask him to show it to you. 19 A. Can you show me mine to see when it was 20 dated? 21 (WHEREUPON, THE ABOVE-MENTIONED DOCUMENT 22 WAS DISPLAYED TO THE WITNESS.) 23 A. Yes, sir, that's the day it was dated. 24 BY MR. MOORE: 25 Q. 3/21/19?</p> <p style="text-align: right;">Page 16</p>
<p>1 recall their names. Winston and Jacob. And 2 Jacob is deceased. He had a heart attack 3 unfortunately. 4 Do you go to church with anybody black 5 people? 6 A. Yeah. Cogan and Pee Wee McGruger. They 7 go to my church and their family, but I don't 8 really know their family too much. 9 Q. Is it safe to say that most of the folks 10 at your church are white? 11 A. Yes, sir. 12 Q. Did you play ball coming up? 13 A. I played -- like in junior high I played 14 football and baseball, but I was more like a 15 horse person. So I mean I rodeoed. I stayed on 16 the road. I didn't really hang out with nobody 17 that played ball and stuff. 18 Q. Okay. Did you do a report concerning 19 the Marquis Tilman incident that happened on 20 March 21st, 2019? 21 A. I did a statement, yes, sir. 22 Q. You did a statement? what's the 23 difference between a report and a statement? 24 A. A statement is -- I guess from what I 25 recall, a report would be something that we would</p> <p style="text-align: right;">Page 15</p>	<p>1 A. Yes, sir. 2 Q. Is that your signature? 3 A. Yes, sir, that is. It's got the C-8 4 after it. 5 Q. Okay. 6 MR. MOORE: We're going to make this 7 Exhibit 1 to his deposition. That's CLT Tilman 8 00088. So CLT Tilman 88. 9 (WHEREUPON, THE ABOVE-MENTIONED DOCUMENT 10 WAS MARKED AS EXHIBIT NO. 1 TO THE TESTIMONY OF 11 THE WITNESS AND IS ATTACHED HERETO.) 12 Q. So you go by Austin instead of Robert? 13 A. Yes, sir. 14 Q. Why is that? 15 A. That's what my mom called me. 16 Q. Okay. In your own words tell me what 17 happened in regards to Marquis Tilman and Clarke 18 County Sheriff's Department on or about March 19 21st, 2019. 20 Hello? Can you hear me? 21 A. I can't hear you. You're frozen. I can 22 see you now. 23 Q. My question was can you tell me in your 24 own words what happened in regards to Marquis 25 Tilman and Clarke County Sheriff's Department on</p> <p style="text-align: right;">Page 17</p>

<p>1 March 21st, 2019?</p> <p>2 A. Yes, sir. I was -- I'm a school</p> <p>3 resource officer for Enterprise, and it was about</p> <p>4 time for bus traffic. I remember hearing, I</p> <p>5 believe it was, Agent Ivy said he was in a chase</p> <p>6 and they were northbound on 45.</p> <p>7 So I radioed to see if my supervisor at</p> <p>8 the time -- or not really my supervisor but the</p> <p>9 next guy we had down at the time wanted me to go</p> <p>10 across Highway 514 which went across to 45. And</p> <p>11 while I was on 514 they had said that Mr. Tilman</p> <p>12 was going to turn and get on 514 and come towards</p> <p>13 the school.</p> <p>14 Well, at that time there's an</p> <p>15 intersection a crossroad highway, County Road</p> <p>16 350. If he would have took a right he would have</p> <p>17 went straight to Clarkdale School. If he would</p> <p>18 have went straight, he would have went to my</p> <p>19 school. So what I did was at the time I placed</p> <p>20 my vehicle where the only way he could go is</p> <p>21 either he was going to hit my vehicle or go</p> <p>22 towards Stonewall, which at the time was the</p> <p>23 safest place being that we've got 2,000 kids</p> <p>24 fixing to be on the road.</p> <p>25 But I don't know what happened. He</p> <p style="text-align: right;">Page 18</p>	<p>1 that to him?</p> <p>2 A. No, sir. The only time -- I apologize</p> <p>3 for interrupting. No, sir, I didn't see nobody</p> <p>4 touch him as far as -- or beat him or anything.</p> <p>5 Q. How did he look in his face -- how did</p> <p>6 his face and body look to you when you arrived?</p> <p>7 A. Can you repeat that because you froze</p> <p>8 again.</p> <p>9 Q. How did he look? How did Mr. Tilman</p> <p>10 look when you arrived?</p> <p>11 A. I don't recall. I mean, he had just</p> <p>12 been in a car wreck. But I mean, as far as like</p> <p>13 -- I mean, what are you asking?</p> <p>14 Q. How he looked. How did his face look?</p> <p>15 How did his body look?</p> <p>16 A. If I'm not mistaken -- now, don't hold</p> <p>17 me to this. I can't exactly remember. But I</p> <p>18 think he had a busted lip maybe. But then again,</p> <p>19 he had just been in a car wreck.</p> <p>20 Q. He had just been in a car wreck or he</p> <p>21 had just had his ass beat. One or the other,</p> <p>22 correct?</p> <p>23 A. I don't believe he got his ass beat, but</p> <p>24 he had just been in a car wreck.</p> <p>25 Q. You were not there, were you? So you</p> <p style="text-align: right;">Page 20</p>
<p>1 turned around and went back south. When I heard</p> <p>2 him go south I left where I was at. And by the</p> <p>3 time I got to them I believe they were just a few</p> <p>4 miles south of 514. I'm not exactly sure. They</p> <p>5 were just a few miles south of 514. When I got</p> <p>6 there they basically put him in my truck I had at</p> <p>7 the time, and I transported him to the jail.</p> <p>8 Q. So did you witness any of the beating?</p> <p>9 A. As far as I know there was no beating.</p> <p>10 I wasn't there. He was in handcuffs when I got</p> <p>11 there.</p> <p>12 Q. Was he in anyone else's vehicle when you</p> <p>13 got there? Was he sitting on the ground? What</p> <p>14 did you see? Tell me exactly what you saw when</p> <p>15 you got there.</p> <p>16 A. He was -- they had him up and he was</p> <p>17 walking like back toward my truck. Like, they</p> <p>18 were -- I think the sheriff said to put him in</p> <p>19 the vehicle and take him on, you know. And he</p> <p>20 was walking back towards my truck because I was</p> <p>21 pulling up and they wanted me to transport him.</p> <p>22 Q. So you didn't punch, kick, stomp, beat</p> <p>23 Mr. Tilman?</p> <p>24 A. No, sir.</p> <p>25 Q. Did you see any of your colleagues do</p> <p style="text-align: right;">Page 19</p>	<p>1 can't say --</p> <p>2 A. (Inaudible).</p> <p>3 Q. Excuse me? Deputy?</p> <p>4 A. You froze up again, sir.</p> <p>5 Q. You were not there so you don't know if</p> <p>6 he got his ass beat or not, do you?</p> <p>7 A. You broke up again, sir.</p> <p>8 Q. You were not there so you don't know if</p> <p>9 he got his ass beat or not, do you?</p> <p>10 A. Correct, I was not there.</p> <p>11 Q. You do know that Sheriff Kemp said on</p> <p>12 the radio to shut him down and beat his ass. Did</p> <p>13 you hear that on the radio?</p> <p>14 A. I did hear that on the radio.</p> <p>15 Q. And did you obey the command of the</p> <p>16 sheriff to beat his ass?</p> <p>17 A. No, sir, I didn't beat his ass.</p> <p>18 Q. Why didn't you obey your superior</p> <p>19 officer?</p> <p>20 A. Because I don't know what the</p> <p>21 circumstances was for saying that, but the way</p> <p>22 personally I handle myself and these other guys</p> <p>23 is in a professional manner. And just going up</p> <p>24 and beating somebody's ass isn't something that</p> <p>25 we do.</p> <p style="text-align: right;">Page 21</p>

<p>1 Q. Even if your boss tells you to do it?</p> <p>2 A. I don't just go around beating people's</p> <p>3 ass.</p> <p>4 Q. But you had permission, Deputy. Why</p> <p>5 didn't you do what you were told to do by your</p> <p>6 boss?</p> <p>7 A. Sir, you broke up. I heard you say you</p> <p>8 had permission, but that was all I heard.</p> <p>9 Q. So why didn't you obey your boss when</p> <p>10 you had permission to beat somebody's ass?</p> <p>11 A. Well, for one, like I said, I just don't</p> <p>12 go around beating people's ass. Number two,</p> <p>13 that's unprofessional. And like I said,</p> <p>14 everybody here handles their self in as much of a</p> <p>15 professional manner as we can.</p> <p>16 I don't know the circumstances of why</p> <p>17 the sheriff said what he said, but what I know is</p> <p>18 my sheriff -- that's not how he is. So I don't</p> <p>19 exactly know what made him say that. I didn't</p> <p>20 see none of that. But I know that my sheriff</p> <p>21 isn't like that.</p> <p>22 So if he would have said something like</p> <p>23 that, something had to have happened. And I</p> <p>24 don't know what it was. But we don't just go</p> <p>25 around beating people's ass. We handle ourselves</p> <p style="text-align: right;">Page 22</p>	<p>1 say it would be proper and I wouldn't say it</p> <p>2 would by okay.</p> <p>3 Now, you can use defense tactics if you</p> <p>4 had to, to do what you had to do to make an</p> <p>5 arrest.</p> <p>6 Q. But you know that defense tactics is not</p> <p>7 the same thing as beating somebody's ass --</p> <p>8 A. That's correct.</p> <p>9 Q. That's --</p> <p>10 A. Sir?</p> <p>11 Q. Defense tactics is to protect yourself</p> <p>12 from being hurt, correct?</p> <p>13 A. Yes, sir, and the suspect as well.</p> <p>14 Q. So that's not beating somebody's ass, is</p> <p>15 it?</p> <p>16 A. No, sir, it's not.</p> <p>17 Q. Did you talk to the sheriff about his</p> <p>18 statement after he said it?</p> <p>19 A. No, sir, I didn't. I never talked to</p> <p>20 him about it.</p> <p>21 Q. Why not?</p> <p>22 A. Honestly, after that I didn't think</p> <p>23 nothing about it, to be honest with you, because</p> <p>24 like I said it's not something -- that's not my</p> <p>25 sheriff and I really just -- I didn't think</p> <p style="text-align: right;">Page 24</p>
<p>1 in a professional manner as possible and that's</p> <p>2 just how we operate around here.</p> <p>3 Q. Were you shocked when you heard the</p> <p>4 sheriff say those words?</p> <p>5 A. In all honesty, I was shocked because,</p> <p>6 like I said, he's never acted that way. I've</p> <p>7 never seen or heard him act that way ever.</p> <p>8 That's why I'm saying we don't -- I mean,</p> <p>9 something had to have happened, and I don't know</p> <p>10 what happened because I didn't see it.</p> <p>11 Q. Would there ever be a time to justify</p> <p>12 the sheriff saying beat somebody's ass like that?</p> <p>13 A. Sir, you're frozen. I see you now.</p> <p>14 Q. Would there ever be a time where the</p> <p>15 sheriff would be justified in saying beat</p> <p>16 somebody's ass?</p> <p>17 A. I don't -- I mean, what are you asking</p> <p>18 as far as beating somebody's ass?</p> <p>19 Q. When would it be proper for the sheriff</p> <p>20 to make that statement or give that command?</p> <p>21 A. I don't exactly know that -- I mean, if</p> <p>22 it was said like -- I don't know if you would say</p> <p>23 it would be proper, but if you said something</p> <p>24 like that in the heat of the moment maybe, I mean</p> <p>25 I can see him maybe saying it. But I wouldn't</p> <p style="text-align: right;">Page 23</p>	<p>1 nothing else about it. Once I transported</p> <p>2 Mr. Tilman to the jail I didn't think anything</p> <p>3 else about it.</p> <p>4 Q. Why didn't you quit after hearing</p> <p>5 something so egregious said by your boss?</p> <p>6 A. Sir?</p> <p>7 Q. Why didn't you just quit after he said</p> <p>8 that?</p> <p>9 A. Quit what?</p> <p>10 Q. Quit your job.</p> <p>11 A. Why would I quit my job because of my</p> <p>12 sheriff saying something like that under whatever</p> <p>13 circumstances it was. Because I know my sheriff</p> <p>14 and I know he's a good man, and I know that's not</p> <p>15 how he operates.</p> <p>16 Q. So you think it was just a Freudian slip</p> <p>17 or something?</p> <p>18 A. Do what now?</p> <p>19 Q. You think it was just a Freudian slip of</p> <p>20 the tongue?</p> <p>21 A. Yes, sir, I believe. Like I said, I</p> <p>22 believe something had to have happened for him to</p> <p>23 say it.</p> <p>24 Q. Or do you believe that's something that</p> <p>25 was really in his heart that he just let come out</p> <p style="text-align: right;">Page 25</p>

<p>1 that's been in his heart for a while?</p> <p>2 A. No, sir.</p> <p>3 Q. Have you ever heard the sheriff use the</p> <p>4 N word?</p> <p>5 A. No, sir.</p> <p>6 Q. Do you use the N word?</p> <p>7 A. No, sir, I don't.</p> <p>8 Q. Have you ever used it?</p> <p>9 A. Probably in my past, but I have a lot of</p> <p>10 things -- I mean, everybody has a past I guess.</p> <p>11 Q. What would make you use the N word in</p> <p>12 your past?</p> <p>13 A. The crowd I was hanging around I guess.</p> <p>14 I don't know.</p> <p>15 Q. You knew it was wrong when you said it?</p> <p>16 A. Yes, sir. And like I said, I don't use</p> <p>17 those -- I don't talk like that anymore.</p> <p>18 Q. When's the last time you think you</p> <p>19 talked like that?</p> <p>20 A. Man, I don't know. I don't know. It's</p> <p>21 been a while.</p> <p>22 Q. Last year. Two years ago?</p> <p>23 A. Oh, no. This was probably -- if -- I</p> <p>24 mean, when and if I said it, it was way when I</p> <p>25 was younger probably not far out of high school</p> <p style="text-align: right;">Page 26</p>	<p>1 A. I'm sure just like most everybody else</p> <p>2 did at the time when they were younger.</p> <p>3 Q. So if the crowd was beating Mr. Tilman</p> <p>4 on March 21st, 2019, did you join in the crowd</p> <p>5 since you're a follower?</p> <p>6 A. No, sir. And that's what I'm trying to</p> <p>7 tell you. No, sir, I wouldn't have.</p> <p>8 Q. How much do you weigh?</p> <p>9 A. How much do I weigh?</p> <p>10 Q. Yes.</p> <p>11 A. Well, I weighed this morning and I</p> <p>12 weighed 278 pounds.</p> <p>13 Q. 278 pounds. And how tall are you?</p> <p>14 A. 510, I think.</p> <p>15 Q. And were you about the same size in 2019</p> <p>16 on the date of this incident?</p> <p>17 A. I'm not really sure. Probably, yes,</p> <p>18 sir. I'm a big guy. Always been a big guy.</p> <p>19 Q. Okay. How big is Mr. Tilman? He was a</p> <p>20 pretty small guy, wasn't he?</p> <p>21 A. Best of my memory, yes, sir. I really</p> <p>22 don't exactly recall. That was a long time ago.</p> <p>23 Q. Did you ever come to his rescue while he</p> <p>24 was getting beaten?</p> <p>25 A. I've never been nowhere where he was</p> <p style="text-align: right;">Page 28</p>
<p>1 maybe.</p> <p>2 Q. You said if and when and maybe, not far</p> <p>3 maybe. But you don't know for certain? It could</p> <p>4 have been five years ago, three years ago?</p> <p>5 A. No, sir. I mean, like I said, I've done</p> <p>6 things that I'm not happy with, but I couldn't</p> <p>7 tell you when it was because, I mean, five years</p> <p>8 ago I was on a drilling rig and I wouldn't said</p> <p>9 it then. Because like I said, I was a changed</p> <p>10 person.</p> <p>11 Q. What changed you? Did you find the</p> <p>12 Lord?</p> <p>13 A. Man, I mean, I don't know. Settling</p> <p>14 down I guess.</p> <p>15 Q. Well, you've only been married for six</p> <p>16 years, so that's called settling down. So once</p> <p>17 you got married you stopped using the N word?</p> <p>18 A. No, sir, it was before then. I don't</p> <p>19 know exact dates of when or whatever. I mean,</p> <p>20 I'm not going to sit here and tell you I've never</p> <p>21 said it. Like I said, I'm sure I have, but it's</p> <p>22 been a long time ago. I'm not the same person I</p> <p>23 was even in high school.</p> <p>24 Q. You were just following the crowd back</p> <p>25 then?</p> <p style="text-align: right;">Page 27</p>	<p>1 getting beaten.</p> <p>2 Q. Okay. So you think he made all this up?</p> <p>3 A. I wasn't there. I don't know -- I've</p> <p>4 never seen him get beaten. But I do know that my</p> <p>5 fellow officers handle their selves in a very</p> <p>6 professional manner on everything that we do.</p> <p>7 But I wasn't there, so I never saw him getting</p> <p>8 beaten.</p> <p>9 Q. Have all of your answers been true and</p> <p>10 correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. How old is the sheriff, Sheriff Kemp?</p> <p>13 What age is he?</p> <p>14 A. I really don't know. He's probably --</p> <p>15 he's probably late 50s maybe. I'm really not</p> <p>16 sure to be honest with you.</p> <p>17 Q. Okay. Do you think he has a problem</p> <p>18 with anger management?</p> <p>19 A. I don't think so. He hasn't ever gotten</p> <p>20 angry with me personally.</p> <p>21 Q. But you're white and this guy was black.</p> <p>22 Do you think he's calm with white people and get</p> <p>23 angry with blacks?</p> <p>24 A. No, sir. Like I told you earlier, my</p> <p>25 sheriff isn't like that.</p> <p style="text-align: right;">Page 29</p>

<p>1 Q. So you just believe this was just a one 2 occurrence where he just said something he 3 shouldn't have said over the radio? 4 A. I think -- personally out of my own 5 opinion, I think something had to have happened. 6 And I don't know exactly what happened, but 7 something had to have happened for him to say it. 8 And that's what I know. I know that my sheriff 9 has got a good heart, and I know that he didn't 10 mean it probably the way that it come out to be. 11 Q. Did it fly all over town that he had 12 said it? It spread over town pretty fast, didn't 13 it? 14 A. I don't have no idea about none of that 15 now. 16 Q. Have you ever heard the term somebody is 17 out of their rabid mind? 18 A. I've heard it, yes, sir. 19 Q. Do you know that could have applied to 20 the sheriff, that he had lost his rabid mind on 21 that day when he said that statement? 22 A. What exactly is rabid mind? I mean, 23 I've heard the statement, but I don't know 24 exactly know if it refers to somebody going crazy 25 or -- what is it?</p> <p style="text-align: right;">Page 30</p>	<p>1 A. I don't really know to be honest with 2 you. 3 Q. All right. 4 MR. MOORE: I tender the witness. 5 MS. MALONE: I don't have any questions 6 for this witness. 7 (WHEREUPON, THE DEPOSITION CONCLUDED AT 8 3:27 p.m.) 9 (FURTHER DEPONENT SAITH NOT.) 10 (SIGNATURE NOT WAIVED.) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 32</p>
<p>1 Q. I get to ask the questions. You get to 2 answer them. Do you think he had lost his mind 3 when he said it? 4 A. No, sir. I think he was possibly in the 5 heat of the moment somehow. Like I said, I don't 6 know how. I wasn't there. I don't know, sir. 7 Q. Does being in the heat of the moment 8 justify his statement? 9 A. I know that when some people get in, 10 say, the heat of the moment or something happens 11 that may endanger their lives, we all do it. 12 Every one of us is human. We all make human 13 mistakes. So I'm not saying it was justified, 14 but what I'm saying is I know we all probably do 15 and say things when something like that happens. 16 So that's why I said something had to 17 have happened. We're all human. We're not 18 perfect. I know everybody thinks the police is 19 supposed to be perfect. But I mean, he slipped. 20 And like I said, I know his heart and that's not 21 his heart. And that's just what happened I'm 22 assuming. That's why we're here today. 23 Q. Do you think you would be here today 24 being deposed by me if he had not have made that 25 statement?</p> <p style="text-align: right;">Page 31</p>	<p>1 C E R T I F I C A T E 2 3 STATE OF MISSISSIPPI: COUNTY OF DESOTO: 4 5 I, POLLY W. WARDLAW, Court Reporter and Notary Public, DeSoto County, Mississippi, 6 CERTIFY: 7 The foregoing proceedings were taken before me at the time and place stated in the 8 foregoing styled cause with the appearances as noted. 9 10 Being a Court Reporter, I then reported the proceeding in Stenotype, and the 11 foregoing pages contain a true and correct transcript of my said Stenotype notes then and there taken. 12 13 I am not in the employ of and am not related to any of the parties or their counsel, and I have no interest in the matter involved. 14 15 I FURTHER CERTIFY that in order for this document to be considered a true and correct copy, it must bear my signature seal, and that 16 any reproduction in whole or in part of this document is not authorized and not to be 17 considered authentic. 18 Witness my signature this, the 19 12th 20  POLLY W. WARDLAW, CCR, LCR 21 22 Notary Public at Large For the State of Mississippi 23 24 My Commission Expires: June 4, 2025 25</p> <p style="text-align: right;">Page 33</p>

<p>1 ERRATA SHEET FOR THE TRANSCRIPT OF:</p> <p>2 AUSTIN TOUCHSTONE</p> <p>3</p> <p>4 CORRECTIONS</p> <p>5 Page Line Now Reads Should Read Reasons</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 (Date) Signature of Witness</p> <p>21 Sworn to and Subscribed before me, _____,</p> <p>22 this _____ day of _____, 20__.</p> <p>23 _____</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 34</p>	
<p>1 jmalone@aabalegal.com</p> <p>2 October 12, 2021</p> <p>3 RE: Tilman, Marquis v. Clarke County, Et Al.</p> <p>4 DEPOSITION OF: Austin Touchstone (# 4810395)</p> <p>5 The above-referenced witness transcript is</p> <p>6 available for read and sign.</p> <p>7 Within the applicable timeframe, the witness</p> <p>8 should read the testimony to verify its accuracy. If</p> <p>9 there are any changes, the witness should note those</p> <p>10 on the attached Errata Sheet.</p> <p>11 The witness should sign and notarize the</p> <p>12 attached Errata pages and return to Veritext at</p> <p>13 errata-tx@veritext.com.</p> <p>14 According to applicable rules or agreements, if</p> <p>15 the witness fails to do so within the time allotted,</p> <p>16 a certified copy of the transcript may be used as if</p> <p>17 signed.</p> <p>18 Yours,</p> <p>19 Veritext Legal Solutions</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 35</p>	

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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